

Remarks

Applicant respectfully requests reconsideration of this application as amended. No claims have been amended, cancelled, or added. Therefore, claims 1-22 and 26-38 are presented for examination.

35 U.S.C. §103(a) Rejection

Claims 1-6, 8, 11-22, 26, 27, 29-32, 34 and 36-38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Horvitz et al. (U.S. Pub. No. 2003/0046421) and Avitan (U.S. Pub. No. 2003/0017854). Applicants submit that the present claims are patentable over Horvitz in view of Avitan.

Horvitz discloses a system that provides controls and displays for acquiring user preferences, inspecting behavior, and guiding learning and decision policies of an adaptive communications prioritization and routing system. (Horvitz at paragraph [0007].) More specifically, the system enables a plurality of information associated with electronic messages to be automatically prioritized by a message urgency system for transmittal to a user or system. The message urgency system can employ classifiers that can be explicitly and/or implicitly trained to prioritize or triage one or more received messages according to a learned importance to the user. (Horvitz at Abstract.).

Avitan discloses a dialer apparatus that receives a telephone number from a wireless mobile computing device and dials the telephone number over a wire landline telephone system. The dialer apparatus includes a wireless transceiver circuit capable of communicating data with the wireless mobile computing device, for receiving and storing telephone dialing data from the wireless mobile computing device representative of a telephone number to be dialed over the

landline telephone system. Off-hook circuitry is connected to the landline telephone system and is responsive to an off-hook command signal, for generating an off-hook signal to the landline telephone system. (Avitan at Abstract.)

Independent claims 1, 11, and 34 disclose, in part, if the level of importance of an event is determined by a digital assistant to be greater than or equal to the second predetermined threshold, then selecting a plurality of persons to contact and attempting to contact the plurality of persons. Applicant submits that Horvitz does not disclose or suggest such a feature. In fact, the Examiner acknowledges this when stating “Horvitz does not explicitly disclose its’ system includes a feature of selecting a person or a group of person to contact and attempting to contact the same, without contacting any persons.” (Office Action mailed 6/27/05 at page 3.)

Applicant would like to point out the cited feature does not include the limitation that the Examiner suggests of “without contacting any person.”

However, the Examiner then relies on Avitan as disclosing the features of claim 1, 11, and 34, namely, selecting a plurality of persons to contact and attempting to contact the plurality of persons. Applicant submits that Avitan does not disclose or suggest this cited feature. The Examiner states that “Avitan teaches a wireless mobile computing telephone dialer, e.g., a digital assistant, for dialing telephone to contact a person or a group of person and attempting to dial the numbers to contact a person or a group of person and without contacting anyone.” (Id.)

Yet, the feature recites *selecting a plurality of persons to contact and attempting to contact the plurality of persons if the level of importance of an event is determined by a digital assistant to be greater than or equal to the second predetermined threshold*. Avitan does not disclose or suggest **selecting a plurality of persons**, rather the telephone dialer of Avitan is given “telephone dialing data” and uses this data to dial a phone number. Avitan does not

disclose any selecting functionality at all. Furthermore, Avitan does not disclose performing its dialing functionality based on the condition that *if the level of importance of an event is determined by a digital assistant to be greater than or equal to the second predetermined threshold*. Therefore, Avitan does not disclose or suggest the cited feature of claims 1, 11, and 34.

As neither Horvitz nor Avitan individually disclose or suggest the cited feature of claims 1, 11, and 34, any combination of Horvitz and Avitan also do not disclose or suggest such a feature. Therefore, claims 1, 18, and 34 are patentable over Horvitz in view of Avitan. Claims 2-10, 12-17, and 35 variously depend from claims 1, 18, and 34, and include additional limitations. As a result, claims 2-10, 12-17, and 35 are also patentable over Horvitz in view of Avitan.

Independent claims 18, 29, and 36, disclose an instance of making a choice between resending a message to a user via another device and sending a message to another person, depending on the nature of the failure. The Examiner asserts that Horvitz-Avitan discloses such a feature. However, applicant would like to point out that these claims were previously allowed over this same rejection based on Horvitz alone. The only present difference is that Avitan has been additionally cited. However, the Examiner provides no specific information as to the exact nature of the rejection of these claims based on Avitan.

In addition, applicant can find no disclosure or suggestion of such a feature anywhere in Avitan. Avitan only discloses using a telephone dialer to dial numbers that have been given to the dialer. Avitan does not disclose or suggest an instance of making a choice between resending a message to a user via another device and sending a message to another person, depending on the nature of the failure. Therefore, as neither Horvitz nor Avitan individually

disclose or suggest the cited feature of claims 18, 29, and 36, any combination of Horvitz and Avitan also does not disclose or suggest such a feature.

As a result, claims 18, 29, and 36 are patentable over Horvitz in view of Avitan. Claims 19-22, 26-28, 30-33, and 37-38 variously depend from claims 18, 29, and 36, and include additional limitations. Therefore, claims 19-22, 26-28, 30-33, and 37-38 are also patentable over Horvitz in view of Avitan.

Claims 7, 9, 10, 28, 33 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Horvitz-Avitan, as applied to claims 1, 18, 29 and 34, and further in view of what was well known in the art. Regarding claims, 7, 9, 10, 28, 33, and 35, these claims variously depend from independent claims 1, 18, 29, and 34. Applicant has previously asserted claims 1, 18, 29, and 34 are patentably distinguished over Horvitz in view of Avitan. As such, claims 7, 9, 10, 28, 33, and 35 are patentable over Horvitz and Avitan, in view of what is well known in the art.

Applicant respectfully submits that the rejections have been overcome and that the claims are in condition for allowance. Accordingly, applicant respectfully requests the rejections be withdrawn and the claims be allowed.

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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